

## **REMARKS/ARGUMENTS**

The amendment to the specification is acknowledged and accepted. Claims 1 – 36 are canceled and claims 37 – 63 pending in the present application, with claims 37 and 42 being independent.

### **Remarks with regards to Continued Examination**

The Examiner states the application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, thus the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 25, 2008 has been entered.

### **Remarks with regards to Specification**

The Examiner has objected to the disclosure because of a number of informalities. The Examiner has cited exemplarity locations such as missing colon between "testing" and "The" on line 1 of paragraph [0057] and a missing colon between the words "procedure" and "During" on line 1. In examining the published version of the specification, Applicant has detected the following missing colons (":") in paragraph subheadings, and requests appropriate amendment to the specification to correct these errors, asserting that these changes are not for the purpose of patentability. These amendments are listed above, and requests are made in reference to Application Publication No. 2005/000802863 A1, and supersede any and all amendment requests made in the application thus far. The Examiner objected to the disclosure because the priority date stated in the specification is incorrect. Applicant has amended the specification rendering these objections respectfully moot.

### **Rejections based on 35 U.S.C. §102(b)**

The Examiner maintains her rejection with respect to claims 1 and 2 under 35 U.S.C §102(b) as being anticipated by Rashotte et al. (*Neuroscience & Behavioral Reviews* **1984**, 8, 231-237) ("Rashotte").

In an effort to further prosecution, Rashotte respectfully does not contemplate claim 37 element 1 "presenting a set of at least three distinctive stimuli to a companion animal wherein

each of said set of at least three distinctive stimuli is associated with an identical food reward” for at least two reasons. Emphasis added.

First, Rashotte discloses a “lever that produced coated food was always marked by a lighted rectangle positioned just above it, the lever that produced uncoated food was marked by a lighted circle just above it; when both levers produced uncoated food, a circle marked each one. . . .” Rashotte page 232, col. 2, paragraph 1. Thus Rashotte discloses two levers. Respectfully, the two levers disclosed by Rashotte is not “at least three distinctive stimuli.”

Second, Rashotte discloses a scenario in which two distinct stimuli are presented to a dog, e.g., a lever marked with a lighted rectangle and a lever marked with a lighted circle, the dog receives either coated food or uncoated food. Respectfully, Rashotte does not contemplate an identical reward. Likewise, in the scenario in which the dog receives uncoated food from either lever marked with a circle, the dog is not presented with distinct stimuli. Respectfully, Rashotte does not contemplate a method which presents a “presenting a set of at least three distinctive stimuli to a companion animal wherein each of said set of at least three distinctive stimuli is associated with an identical food reward.”

Claims 38 – 41 are dependent upon claim 37 and are respectfully not anticipated by Rashotte. Rashotte respectfully likewise does not anticipate independent claim 42 for the same reasons listed above with respect to Applicant’s claim 37. Claims 43 - 63 are dependent upon claim 42 and are therefore not anticipated by Rashotte.

The Examiner maintains her rejection with respect to claims 1 and 2 under 35 U.S.C §102(b) as being anticipated by Laska et al. (*Learn Mem.* 1998, 5, 193-203) (“Laska”).

In an effort to further prosecution, Laska respectfully does not contemplate claim 37 element 1 “presenting a set of at least three distinctive stimuli to a companion animal wherein each of said set of at least three distinctive stimuli is associated with an identical food reward.” Emphasis added. Examiner stated in the July 15, 2008 Office Action that “[t]he cookies (food) are identical and therefore the two distinct stimuli (red or yellow) are associated with an identical reward.” Respectfully Laska does not disclose an “identical reward” as the cookies are

not identical. Laska discloses that for “the palatable cookies, 15 grams of sugar was added to the dough, and for the unpalatable cookies, 5 grams of quinine hydrochloride and 10 grams of ascorbic acid were added.” Laska specifically discloses that “the combination of quinine hydrochloride and ascorbic acid reliably evoked aversive reactions.” Laska, p. 194, col. 2, paragraph 3. Respectfully, a cookie using sugar is not an “identical reward” to a cookie that “reliably evoked aversive reactions.”

Likewise, Laska does not contemplate claim 37 element 2 “permitting said companion animal to select one distinctive stimulus from said set of at least three distinctive stimuli.” Laska discloses presenting cookies, *i.e.*, the food reward, directly to the animals. Laska, p. 195, col. 1, paragraph 4. Applicant, on the other hands permits a companion animal to “select one distinctive stimulus” in which an identical food reward is presented “after selecting one said distinctive stimulus from said set of at least three distinctive stimuli.”

Claims 38 – 41 are dependent upon claim 37 and are respectfully not anticipated by Laska. Laska respectfully likewise does not anticipate independent claim 42 for the same reasons listed above with respect to Applicant’s claim 37. Claims 43 - 63 are dependent upon claim 42 and are therefore not anticipated by Laska.

### **Rejections based on 35 U.S.C. §103(a)**

The Examiner maintains her rejection with respect to claims 1-12 and 27-36 as being unpatentable over Laska in view of Tapp, et al. (Learn. Mem. 2003, 10, 64-73) (“Tapp”).

In an effort to further prosecution, Applicant respectfully asserts Laska does not anticipate claims 37 – 63 for the reasons cited above. Furthermore, Tapp does not contemplate claim 37, element 1 “presenting a set of at least three distinctive stimuli to a companion animal wherein each of said set of at least three distinctive stimuli is associated with an identical food reward.” Tapp discloses a method for presenting food in two lateral wells in which a “lateral well was unbaited.” Tapp, p 70, col. 2, paragraph 3.

Thus, Laska in view of Tapp does not teach, suggest, or discloses Applicant’s independent claim 37. Claims 38 – 41 are dependent upon claim 37 and are respectfully novel over Laska in view of Tapp. Laska in view of Tapp respectfully likewise does not teach,

suggest, or disclose independent claim 42 for the same reasons listed above with respect to Applicant's claim 37. Claims 43 - 63 are dependent upon claim 42 and are therefore respectfully novel over Laska in view of Tapp..

Applicant has herein cancelled claims 1 – 36 and added new claims 37 – 63. For at least the reasons stated herein, Applicant asserts that the claims as presented are patentable over the cited prior art and are therefore in condition for allowance.

### **Summary**

Applicant further respectfully submits that Laska, neither alone nor in combination with Tapp teaches, suggests or discloses *Independent Claim 37*. Claims 38 - 41 depend from and are further limitations of independent Claim 37 and are therefore allowable over the cited prior art for at least the reasons stated above.

Applicant further respectfully submits that Laska, neither alone nor in combination with Tapp teaches, suggests or discloses *Independent Claim 42*. Claims 43 – 63 depend from and are further limitations of independent Claim 42 and are therefore allowable over the cited prior art for at least the reasons stated above.

### **Conclusion**

Claims 37 - 63 are pending in the present applicant. Claims 37 and 42 are independent claims. Applicant asserts that the claims as presented herein are patentable over the cited prior art for at least the reasons stated herein and are therefore in condition for allowance. Applicant respectfully requests a timely Notice of Allowance for the claims in this case.

Respectfully submitted,

DALINA LAW GROUP, P.C.

**/AD60958/**

By \_\_\_\_\_

Allen D. Danner  
Reg. No. 60,958  
Tel.: 626-405-1413  
Fax: 858-777-5425